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Karl M. Bizjak

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PILLSBURY WINTHROP SHAW PITTMAN LLP

P.O. BOX 10500

MCLEAN, VA 22102

EXAMINER

FAULK, DEVONA E

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/728,215	<b>Applicant(s)</b> BIZJAK, KARL M.	
	<b>Examiner</b> DEVONA E. FAULK	<b>Art Unit</b> 2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-, 12-35, 38-47, 50-81, 89-93, 18, 121-123 is/are pending in the application.
- 4a) Of the above claim(s) 6-11, 48, 49, 82-88, 94-117, 119 and 120 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 12-16, 18, 19, 21, 23-25, 34, 35, 38-46, 49-60, 63-81, 89-93, 122 and 123 is/are rejected.
- 7) ☒ Claim(s) 2, 4, 5, 17, 20, 22, 26-33, 61, 62, 121 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                          | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, regarding the newly recited claim language, filed 5/27/08, with respect to the rejection(s) of claim(s) 1 and 16 under 102(e) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Suzuki et al. (US 5,251,262) and 112 2<sup>nd</sup> rejection.
2. Applicant's arguments, regarding the newly recited claim language, filed 5/27/08, with respect to the rejection(s) of claim(s) 51 and 55 under 102(e) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Slater.
3. Applicant's arguments, regarding claims 21 and 25, filed 5/27/08 have been fully considered but they are not persuasive. Regarding claims 21 and 25, the applicant asserts that the AAPA does not disclose generation of a limited negative feedback. The examiner asserts that it is not clear as to what is meant by limited and that the prior art teaches of a negative feedback, which reads on limited feedback. The amendment to the claims has not changed the claim. Furthermore the specification lacks antecedent basis for "limited". The examiner is maintaining the rejection of claims 21 and 25.
4. Applicant's arguments, regarding the claim objections to claims 2,4-5,118, filed 5/27/08 have been fully considered but they are not persuasive. The specification discloses, on page 121, that "The functions of segment parameter selector 2425 (also

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shown by dashed lines) are implemented by segment selector 5610 and lookup table 5615. The segment selector uses positive loop differential 5620, differential polarity change 5625, JK integrate 5725, slow response limit 5650, and delay time limit 5655, to select a particular segment (slow response, converge, or delay). User select 5660 and 5665 can be used to provide user selectable different segment responses, for example to allow the user to select different delay times, short delays for sporting events and longer ones for more typical use. The lookup table 5615 produces the final filter coefficients 2440 (KI 5635, KF 5640, and acceleration limit 5645) as selected by these inputs.” While this does disclose a time response algorithm with convergence and

delay, it does not read on “delaying responding to a change in the noise above a limit” (claim 2) or converging on a noise level corresponding to a change in the noise indicia above a threshold “ (claim 4) or of “ converging on a noise level corresponding to a noise indicia above a threshold following the delayed response.” (claim 5).

5. The applicant has amended claim 71 to overcome the claim objection but failed to amend the claim to overcome the 112 rejection set forth in the previous office action. The examiner is therefore maintaining the 112 rejection set forth in the previous office action.

6. The applicant has failed to overcome the claim objections to claims 38 and 50.

7. The indicated allowability of claim 47 is withdrawn in view of the newly discovered reference(s) to Suzuki. Rejections based on the newly cited reference(s) follow. This action is made non-final for this reason.

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8. Claims 36 and 37 are cancelled. Claims 6-11,48,49,82-88,94-117,119 and 120 are withdrawn from consideration

### ***Specification***

9. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: **Claims 2 and 121** recite "...and the time response algorithm includes delaying responding to a change in the noise indicia above a threshold".

**Claim 17** recites "... combining at least some of the outputs of the multiple instances...". **Claims 4,5 and 118** recite "wherein the time response algorithm further includes converging on a noise level corresponding to the noise indicia above the threshold following the delayed response. **Claim 118** further recites "... providing a response which is relatively slow in comparison to the change in noise indicia following the converged response..". The examiner asserts that the issue was not with the term algorithm. The issue is with what is recited regarding the algorithm. The abstract discloses using an algorithm that includes time response and that the algorithm may include thresholding delay or convergence but there is no disclosure in the specification of a time response algorithm including delaying responding to a change in the noise indicia above a threshold or of converging on a noise level corresponding to a noise indicia above a threshold following the delayed response. The specification discloses, on page 121, that "The functions of segment parameter selector 2425 (also shown by dashed lines) are implemented by segment selector 5610 and lookup table 5615. The segment selector uses positive loop differential 5620, differential polarity change 5625,

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JK integrate 5725, slow response limit 5650, and delay time limit 5655, to select a particular segment (slow response, converge, or delay). User select 5660 and 5665 can be used to provide user selectable different segment responses, for example to allow the user to select different delay times, short delays for sporting events and longer ones for more typical use. The lookup table 5615 produces the final filter coefficients 2440 (KI 5635, KF 5640, and acceleration limit 5645) as selected by these inputs.” While this

does disclose a time response algorithm with convergence and delay, it does not read on “delaying responding to a change in the noise above a limit” (claim 2) or converging on a noise level corresponding to a change in the noise indicia above a threshold “ (claim 4) or of “ converging on a noise level corresponding to a noise indicia above a threshold following the delayed response.” (claim 5) or any of the claim language noted above.

10. Claims 21 and 25 recite “..limited negative feedback..”. The specification lacks antecedent basis for the term “limited”.

**Claim 38** recites “.. combining a plurality of the environmental inputs into a an environmental input...”. The specification discloses a plurality of environmental inputs (environmental inputs 470, Figure 52 A; page 105 3<sup>rd</sup> paragraph). The specification does not disclose that the environmental inputs are combined into a primary environmental signal.

**Claim 50** recites “wherein the combining step includes combining at least some algorithms configured to perform the same function”. The specification does not disclose the above noted claim language.

If the applicant believes this specification objection is in error, the applicant needs to clearly identify where this subject matter can be found in the specification. The examiner could not find the above mentioned subject matter in the specification.

11.

### ***Claim Objections***

12. **Claims 20,22,26-33,61,62** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

13. Claims 2,4,5,17,21,25,38,50,118 and 121 are objected to because of the following informalities: **Claims 2 and 121** recite "...and the time response algorithm includes delaying responding to a change in the noise indicia above a limit ". **Claim 121** also recites " ..providing a relatively slow response in comparison to changes in noise indicia following the delayed response when the noise indicia is below the limit..". **Claim 17** recites " "... combining at least some of the outputs of the multiple instances...". **Claims 4,5 and 118** recite " wherein the time response algorithm further includes converging on a noise level corresponding to the noise indicia above the threshold following the delayed response. **Claim 118** further recites " "... providing a response which is relatively slow in comparison to the change in noise indicia following the converged response..". The examiner asserts that the issue was not with the term algorithm. The issue is with what is recited regarding the algorithm. The abstract discloses using an algorithm that includes time response and that the algorithm may

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include thresholding delay or convergence but there is no disclosure in the specification of a time response algorithm including delaying responding to a change in the noise indicia above a threshold or of converging on a noise level corresponding to a noise indicia above a threshold following the delayed response. The specification discloses, on page 121, that "The functions of segment parameter selector 2425 (also shown by dashed lines) are implemented by segment selector 5610 and lookup table 5615. The segment selector uses positive loop differential 5620, differential polarity change 5625, JK integrate 5725, slow response limit 5650, and delay time limit 5655, to select a particular segment (slow response, converge, or delay). User select 5660 and 5665 can be used to provide user selectable different segment responses, for example to allow the user to select different delay times, short delays for sporting events and longer ones for more typical use. The lookup table 5615 produces the final filter coefficients 2440 (KI 5635, KF 5640, and acceleration limit 5645) as selected by these inputs." While this does disclose a time response algorithm with convergence and delay, it does not read on "delaying responding to a change in the noise above a limit" (claim 2) or converging on a noise level corresponding to a change in the noise indicia above a threshold " (claim 4) or of " converging on a noise level corresponding to a noise indicia above a threshold following the delayed response." (claim 5) or of any of the other claim language noted above.



**Claims 21 and 25** recite "...limited negative feedback.." The specification appears to teach of negative feedback but not "limited". The examiner is interpreting the claim language as it was previously recited.

**Claim 38** recites "... combining a plurality of the environmental inputs into a primary environmental input...". The specification discloses a plurality of environmental inputs (environmental inputs 470, Figure 52 A; page 105 3<sup>rd</sup> paragraph). The specification does not disclose that the environmental inputs are combined into a primary environmental signal.

**Claim 50** recites "wherein the combining step includes combining at least some algorithms configured to perform the same function". The specification does not disclose the above noted claim language.

If the applicant believes this specification objection is in error, the applicant needs to clearly identify where this subject matter can be found in the specification. The examiner could not find the above mentioned subject matter in the specification.

### ***Claim Rejections - 35 USC § 112***

14. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

15. Claim 16 recites the limitation "the group" in line 10. There is insufficient antecedent basis for this limitation in the claim. The examiner has interpreted the last limitation as "the step of selectively modifying the environmental input includes modifying the environmental input in accordance with a plurality of such algorithms".

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16. Claims 21 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 21 and 25 recite “.. a limited negative feedback...”. The examiner is not clear as to what is meant by limited. If there is negative feedback what constitutes "limited". Clarity is needed.

17. **Claims 71-76 (claims 72-81,89-93 are dependent upon claim 71)** recite

71. (Currently amended) ~~The method of claim 70~~ A noise extraction method comprising  
the steps of:  
providing a reference signal,  
providing an environmental input which includes a noise indicia with a small  
noise  
fluctuation amplitude,  
**determining the difference between the environmental input and the**  
**reference signal**  
,to generate a negative feedback signal,  
modifying one signal of a group comprising the environmental input and the  
reference  
signal to minimize the difference to correct for the small noise fluctuation  
amplitude, and generating a modified output signal in accordance therewith,  
wherein at least one of the steps of providing at least one environmental input  
and at least one  
reference input includes providing a plurality of such inputs, and wherein  
**the determining step includes determining the difference between**  
**associated ones of the environmental inputs and the reference inputs.**  
72. (Original) The method of claim 71 wherein the determining step further includes signal processing of at least one of the group comprising the at least one environmental input and the at least one reference input.  
73. (Original) The method of claim 71 wherein the converting step includes converting each result of the determining step.  
74. (Original) The method of claim 73 further including the step of combining results of the converting step.  
75. (Original) The method of claim 72 wherein the signal processing includes at least one of a group comprising input scaling, filtering, rectification, envelope detection, averaging, RMS power estimation, Fourier transform, delay compensation, equalizing, emphasizing and de-emphasizing.

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76. (Original) The method of claim 71 wherein the step of generating a modified output

signal includes generating a modified output signal for at least some of the associated ones.

77. (Currently amended) The method of claim 76 further including the steps of selecting, for at least some of the pairs of associated ones, as an unmodified output signal t-he one signal of the group not modified in the modifying step,

The claim language is confusing. The examiner is not clear as to what is being modified. The claim language begins with only one environmental and reference input and ends with a plurality and there are two determining steps, one processing a single reference and environmental input and the other processing a plurality. Is there only one environmental and reference input being processed or a plurality of environmental inputs and reference inputs being processed? The examiner has to be clear about which is the case in order to search for art that would read on the claim language.

18. Claims 73 and 74 recites the limitation "... the converting step includes converting each result of the determining step.." The examiner is unclear as to which determining step is being referred to, claim 71 had two determining step. Clarity is needed.

### ***Claim Rejections - 35 USC § 102***

19. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

20. **Claims 1,3,14-16,18,35,45-47,123** are rejected under 35 U.S.C. 102(b) as being anticipated by Suzuki et al. (US 5,251,262).

Regarding **claim 1**, Suzuki discloses a noise extraction method (Figure 3; column 2, lines 40-65; Figure 3) comprising the steps of:

providing an environmental input which includes a noise indicia (microphone 20, Figure 3; column 5, lines 55-59),

selectively modifying the environmental input in accordance with an algorithm based on a time response, amplitude of response comprising at least two components of a group including delay, converge and slow response (the modifying step is comprised of the delay 18 and adaptive controller 19 and inverse filter 22 of Figure 3, the delay 18 and adaptive controller 19 comprise one time algorithm and the inverse filter 22 comprises another time algorithm; the adaptive controller 19 having convergence; algorithm is defined as procedure for solving a mathematical problem in a finite number of steps ; column 5, lines 28-35; column 6, lines 16-39)

generation an output, whereby the output modifies a system gain (output of adaptive controller 19 is fed to speaker 17 and serves to modify a system gain; column 6, lines 16-39).

All elements of claims 3 and 14 are comprehended by the rejection of claim 1 (microphone 20 produces an analog signal).

Regarding claim 15, Suzuki teaches of wherein the step of selectively modifying the environmental input includes multiple instances of modifying in accordance with the selected algorithm (adaptive controller 19 adaptively modifies; column 5, lines 45-50).

All elements of claim 35 are comprehended by the rejection of claim 1 (Suzuki teaches of a microphone).

Regarding **claims 45-47**, Suzuki teaches of a plurality of time algorithms and combining at least some results of the algorithms ( the outputs of the inverse filter is added to the output of the adaptive controller; regarding the plurality of time algorithms see Suzuki as applied above to claim 1).

Regarding **claim 123**, Suzuki discloses providing a noise sensitivity control signal and modifying the environmental input based on the noise sensitivity control signal (output of inverse filter reads on noise sensitivity control signal, Figure 3; column 5, line 5- column 6, line 45 ). It is implicit that the environmental input modifies the signal-to-noise ration of a system output.

Regarding **claim 16**, Suzuki discloses a noise extraction method (Figure 3; column 2, lines 40-65; Figure 3) comprising the steps of:

providing an environmental input which includes a noise indicia (microphone 20, Figure 3; column 5, lines 55-59),

selectively modifying the environmental input in accordance with an algorithm based on a time response, amplitude of response comprising at least two components of a group including delay, converge and slow response the modifying step is comprised of the delay 18 and adaptive controller 19 and inverse filter 22 of Figure 3, the delay 18 and adaptive controller 19 comprise one time algorithm and the inverse filter 22

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comprises another time algorithm; the adaptive controller 19 having convergence; algorithm is defined as procedure for solving a mathematical problem in a finite number of steps ; column 5, lines 28-35; column 6, lines 16-39)

generation an output accordingly (output of adaptive controller 19 is fed to speaker 17 and serves to modify a system gain; column 6, lines 16-39)

the step of selectively modifying the environmental input includes modifying the environmental input in accordance with a plurality of such algorithms (modification is done based on delay and the adaptive controller 19 of Figure 3).

Regarding claim 18, Suzuki teaches of combining at least some results of the algorithms ( the outputs of the inverse filter is added to the output of the adaptive controller, See Suzuki as applied above to claim 16).

### ***Claim Rejections - 35 USC § 103***

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. **Claim 12** is rejected under 35 U.S.C. 102(e) as being anticipated by Suzuki et al. (US 5,251,262) as modified by Zurek et al.(US 4,956,867).

Regarding claim 12,Suzuki discloses an environmental input. Suzuki fails to disclose that the environmental input comprises a plurality of environmental sub-inputs. Zurek discloses an environmental input comprised of environmental sub-inputs (Figures 1,2,4 ; microphones 12a,12b of Figures 1 and 2 and microphones 821-82m of Figure 4).

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It would have been obvious to modify Suzuki so that the environmental input comprises a plurality of environmental sub-inputs in order to receive an input signal having target and noise signal components (Zurek, column 2, lines 28-30).

23. **Claims 13,19 and 122** is rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al. (US 5,251,262).

Regarding **claim 13**, Suzuki discloses wherein the environmental input is an analog signal. Suzuki fails to disclose that the environmental input is a digital signal. The examiner takes official notice that digital signals or digital processing is known in the art. It would have been obvious to modify Suzuki so that the environmental input is digital in order to provide a higher quality sound at the output.

Regarding **claim 19**, the examiner takes official notice that a plurality of outputs is well known in the art.

Regarding **claim 122**, Suzuki discloses using an adaptive filter. Suzuki fails to disclose that the filter is a low pass filter. The examiner takes official notice that low pass filters are well known in the art and it would have been obvious to have the filter be a low pass filter for the benefit of only passing or outputting a signal in the low frequency range.

21.. **Claims 25,59,60 and 62** are rejected under 35 U.S.C. 103(a) as being unpatentable over the applicant's admitted prior art (hereafter AAPA) (Figure 2, page 4-page 5) .

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Regarding claim 25, AAPA discloses a noise extraction method comprising the steps of:

providing a reference signal (speaker Figure 2, page 4);

providing an environmental input which includes noise indicia with a small noise fluctuation amplitude (Figure 2);

determining the difference between the environmental input and the reference signal to generate a feedback signal (Figure 2),

modifying one signal of a group comprising the environmental input and the reference signal to minimize the difference to correct for the small noise fluctuation amplitude (Figure 2, page 4), and

generating a modified output signal in accordance therewith (Figure 2).

AAPA discloses generating a positive feedback signal.

The examiner takes official notice that a positive or negative feedback signal is well known in the art (A positive feedback signal is one that increases the gain and a negative feedback is one that decreases the output). It would have been obvious to one of ordinary skill in the art to modify the AAPA generate a negative feedback signal in order to decrease the output signal.

All elements of **claims 59,60 and 62** are comprehended by the rejection of claim 25 (See AAPA as applied to claim 25 above and AAPA teach of processing using filtering on page 4).

22. **Claims 34,38-41** is rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al. (US 5,251,262) in view of Kates (US 6,072,884).



Regarding claim 34, Suzuki fails to disclose a plurality of environmental inputs and combining a plurality of environmental inputs into a primary environmental input.

Kates discloses that signals from two or more microphones are combined to form audio signal 504 (Figure 5; column 10, lines 62-65; column 11, lines 11-20). It would have obvious to modify Suzuki to include a plurality of environmental inputs and combining the inputs into a primary environmental input to allow adaptive directional microphone processing.

Regarding **claim 38**, Suzuki discloses a noise extraction method (Figure 3; column 2, lines 40-65; Figure 3) comprising the steps of:

providing an environmental input which includes a noise indicia (microphone 20, Figure 3; column 5, lines 55-59),

selectively modifying the environmental input in accordance with an algorithm based on a time response, amplitude of response comprising at least two components of a group including delay, converge and slow response (algorithm is defined as procedure for solving a mathematical problem in a finite number of steps ; the delay 18 and adaptive controller 19 of Figure 3 comprise the time algorithm; the adaptive controller 19 having convergence; column 5, lines 28-35; column 6, lines 16-39)

generation an output, whereby the output modifies a system gain (output of adaptive controller 19 is fed to speaker 17 and serves to modify a system gain; column 6, lines 16-39).

Suzuki fails to disclose a plurality of environmental inputs and combining a plurality of environmental inputs into a primary environmental input.

Kates discloses that signals from two or more microphones are combined to form audio signal 504 (Figure 5; column 10, lines 62-65; column 11, lines 11-20). It would have obvious to modify Seligman to include a plurality of environmental inputs and combining the inputs into a primary environmental input to allow adaptive directional microphone processing.

All elements of **claims 39-41** are comprehended by the rejection of claim 38 (See Figures 5 and 6; Figure 6 discloses an embodiment wherein the signal processing is performed separately for each environmental input).

23. **Claim 44** is rejected under 35 U.S.C. 102(e) as being anticipated by Suzuki et al. (US 5,251,262).

Regarding **claim 44**, Suzuki teaches of a time response algorithm. Suzuki fails to disclose that the time response algorithm includes variable attack and release. The examiner takes official notice that variable attack and release algorithms are known in the art. It would have been obvious to modify Suzuki so that the time response algorithm includes variable attack and release so that modifying the environmental input could be done dynamically.

24. **Claims 51-54** are rejected under 35 U.S.C. 103(a) as being unpatentable over Germer (US 4,628,526) in view of Helms (US 5,666,426) in further view of Slater (US 5,666,426).

Regarding **claim 51**, Germer discloses a noise extraction method comprising the steps of:

Providing a reference input indicative of output power level (output of speaker 10, Figure 1),

Providing an environmental input which includes a noise indicia ( microphone 11, Figure 1),

Generating an indication of noise power level in response to the environmental input (envelope curve signal, see abstract; column 5, lines 15-35),

Comparing the reference input to the indication of noise power level (abstract; column 5, lines 15-35),

Selectively modifying system gain in accordance with compare step (abstract; column 5, lines 15-55).

Germer fails to disclose providing a noise sensitivity control signal for modifying the signal-to-noise ration of system output. Helms discloses an automatic volume control to compensate for ambient noise variations including a volume control which controls the volume of sound that is output by the system (22, Figure 1; column 2, lines 49-55) and a microphone (12) that receives the total ambient sound including the output from the speaker (column 2, lines 62-65). Whenever the volume control is used the signal-to-noise ratio is implicitly modified.

It would have been obvious to modify Germer to include a volume control that controls the volume of sound output by the system in order to provide manual control over the system output.

Germer as modified fails to explicitly teach that the noise power level is adjusted response to a noise sensitivity control signal. Slater teaches of a noise power level that

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is adjusted based on a sensitivity control signal (column 5, lines 27-34). It would have been obvious to modify Germer as modified so that the noise power level is adjusted in response to a sensitivity control signal in order to enhance voice intelligibility.

All elements of **claim 54** are comprehended by the rejection of claim 51.

25. **Claims 21,42,43,68** are rejected under 35 U.S.C. 103(a) as being unpatentable over the applicant's admitted prior art (hereafter AAPA) (Figure 2, page 4-page 5) in view of Humphrey (US 4,306,115).

Regarding **claim 21**, AAPA discloses a method for correction for small noise fluctuation including the steps of providing at least one environmental input having a noise indicia with a small noise fluctuation amplitude (microphone, Figure 2),

providing at least one reference input (speaker Figure 2, page 4),  
determining the difference between the environmental input and the reference input to generate a feedback signal (Figure 2),

converting the feedback signal to a gain offset to correct for the small noise fluctuation (Figure 2, page 4).

AAPA fails to disclose the gain having a predetermined maximum and minimum. Humphrey discloses the concept of gain that has a predetermined minimum and maximum (column 3, lines 17-19). It would have been obvious to modify the AAPA so that the gain has a predetermined maximum and minimum in order to provide a operating or working range for the user.

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All elements of **claim 42 and 43** are comprehended by the rejection of claim 21.

All elements of **claim 68** are comprehended by the rejection of claim 25 (See AAPA as applied to claim 21 above and AAPA teach of processing using filtering on page 4).

26. **Claim 55** is under 35 U.S.C. 103(a) as being unpatentable over Germer (US 4,628,526) in view of view of Shen (US 5,416,845) in view of Helms (US 5,666,426) in further view of Slater (US 5,666,426).

..

Regarding **claim 55**, Germer discloses a noise extraction method comprising the steps of:

Providing a reference input indicative of output power level (output of speaker 10, Figure 1),

Providing an environmental input which includes a noise indicia ( microphone 11, Figure 1),

Generating an indication of noise power level in response to the environmental input (envelope curve signal, see abstract; column 5, lines 15-35),

Comparing the reference input to the indication of noise power level (abstract; column 5, lines 15-35),

Selectively modifying system gain in accordance with compare step (abstract; column 5, lines 15-55).

Germer fails to disclose that the reference input includes a plurality of inputs.

Shen discloses wherein a reference input includes a plurality of reference inputs (Figure 6, column 15, lines 12-26, Figure 1B).

The prior art, as evidenced by Shen discloses a plurality of reference inputs. It would have been obvious to try the known method of noise extraction with a plurality of reference signals in order to provide a multichannel system.

Germer as modified fails to disclose providing a noise sensitivity control signal for modifying the signal-to-noise ration of system output. Helms discloses an automatic volume control to compensate for ambient noise variations including a volume control which controls the volume of sound that is output by the system (22, Figure 1; column 2, lines 49-55) and a microphone (12) that receives the total ambient sound including the output from the speaker (column 2, lines 62-65). Whenever the volume control is used the signal-to-noise ratio is implicitly modified.

It would have been obvious to modify Germer to include a volume control that controls the volume of sound output by the system in order to provide manual control over the system output.

Germer as modified fails to explicitly teach that the noise power level is adjusted response to a noise sensitivity control signal. Slater teaches of a noise power level that is adjusted based on a sensitivity control signal (column 5, lines 27-34). It would have been obvious to modify Germer as modified so that the noise power level is adjusted in response to a sensitivity control signal in order to enhance voice intelligibility.

27. **Claim 56-58** are rejected under 35 U.S.C. 103(a) as being unpatentable over Germer (US 4,628,526) in view of view of Shen (US 5,416,845) in view of Helms (US 5,666,426) in view of Slater (US 5,666,426) in further view of .Kates (US 6,072,884).

Regarding claims 56-58, Germer as modified discloses an environmental and reference input. Germer as modified fails to disclose combining at least some of the plurality of reference inputs to generate overall indication of output level (claim 56); a plurality of environmental inputs (claim 57); combining at least some of the plurality of inputs to generate an overall indication of noise (claim 58)

Kates discloses that signals from two or more microphones are combined to form audio signal 504 (Figure 5; column 10, lines 62-65; column 11, lines 11-20). It would have obvious to modify Germer to include a plurality of environmental inputs or reference inputs and combining the inputs to allow adaptive directional microphone processing.

28. **Claims 63-67,69** are rejected under 35 U.S.C. 103(a) as being unpatentable over the applicant's admitted prior art (hereafter AAPA) (Figure 2, page 4-page 5) in view of Humphrey (US 4,306,115) in further view of Kates (US 6,072,884).

Regarding claims 63-67, AAPA as modified discloses an environmental and reference input. AAPA as modified fails to disclose wherein at least one of the steps of providing at least one environmental input and at least one reference input includes providing a plurality of such inputs.

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Kates discloses that signals from two or more microphones (Figure 5; column 10, lines 62-65; column 11, lines 11-20). It would have obvious to modify Seligman to include a plurality of environmental inputs to allow adaptive directional microphone processing.

All elements of claim 64-67,69 are comprehended by the rejection of claim 63.

29. **Claim 70** is rejected under 35 U.S.C. 103(a) as being unpatentable over the applicant's admitted prior art (hereafter AAPA) (Figure 2, page 4-page 5) in view of .Kates (US 6,072,884)..

AAPA fails to disclose a plurality of environmental inputs .

Kates discloses that signals from two or more microphones (Figure 5; column 10, lines 62-65; column 11, lines 11-20). It would have obvious to modify Seligman to include a plurality of environmental inputs to allow adaptive directional microphone processing.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DEVONA E. FAULK whose telephone number is (571)272-7515. The examiner can normally be reached on 8 am - 5 pm.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Devona E. Faulk/  
Examiner, Art Unit 2615